

NON-PROFIT CORPORATIONS FOR MANAGING SMALL OR SUBSURFACE WASTEWATER FLOW SYSTEMS

Entities to manage large soil absorption systems, extended treatment or experimental systems, clustered systems or other more complex systems must guarantee that they will be responsible for the system and be available to provide operation and maintenance. The following guidance provides for a non-profit corporation which can do that:

1. The non-profit organization should be incorporated according to Idaho Code, Title 30, Chapter 03.
2. Membership should be limited to property owners only.
3. Voting should be limited to one parcel/one full membership/one vote.
4. Voting rights should be restricted to members with improved property.
5. Voting rights should not be cancelled.
6. The purposes of the organization should be clearly defined in the Articles of Incorporation.
7. The funds generated are to operate the specific function(s) and should be restricted for use to the specific purpose.
8. Multiple purpose organizations funds generated are to be separately maintained and funds from one account should not be available for another account's use.
9. The organization should own the system(s) it intends to maintain.
10. Mutually agreeable access to those systems owned by the entity should be provided by the property owner.
11. The membership (and shares) in the entity must run with the land and successive owners must acquire the preceding owner's membership or voting share(s).
12. The purchaser or any new member should be provided with a copy of the Articles of Incorporation, By-Laws, Covenants and Contracts with the entity.
13. There should be no provision(s) restricting ownership of improved property.
14. The entity should be capable of raising revenue by fixing and collecting user charges.
15. The Board of Directors should be able to raise revenue in emergency operation and maintenance without majority vote.

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16. The organization must be capable of suing and of being sued, maintain the capability to impose liens on those members (shareholders) who become delinquent in user charges and can suspend services, providing such suspension will not jeopardize other members use.
17. An operation and maintenance manual shall be approved by the Director and shall include the monitoring requirements as outlined in the Extended Treatment Package Systems, Conditions of Approval Section.
18. The conditions for dissolution of the organization should be specified. Dissolution should be limited to connection to a municipal wastewater treatment facility or merger with another approved non-profit-corporation having management capability.
19. Except as provided in Item 18 the entity should not be able to vote itself out of existence.
20. A third party should be identified to execute the specified operation and maintenance function(s) in the event the operating entity is incapable of performance.
21. The entity should be able to plan and control how and at what time additional service functions will be extended or added.
22. The Articles of Incorporation and/or By-Laws should provide for proxy voting.
23. Proxies should not be binding on new purchasers.
24. The developer of the project should be required to contribute to the operation and maintenance until such time as the non-profit corporation is self-sustaining. Consider either a specified period of time or when a specified number of lots has been sold.
25. The organization should have a defined service area boundary.